IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.88 OF 2006

Shidgonda R. Chaugule. ..Petitioner.

V/s.

Shri Popat Giddey(and/or his Successor)
The Deputy Engineer,
Public Works, Sub-Division
Jath, Dist.Sangli. ..Respondent.

WITH

CONTEMPT PETITION NO.89 OF 2006

Dhannappa G.Murgundi. ..Petitioner.

V/s.

Shri Popat Giddey(and/or his Successor)
The Deputy Engineer,
Public Works, Sub-Division
Jath, Dist.Sangli. ..Respondent.

WITH

CONTEMPT PETITION NO.90 OF 2006

Kallappa R.Kumbar. ..Petitioner.

V/s.

Shri Popat Giddey(and/or his Successor)
The Deputy Engineer,
Public Works, Sub-Division
Jath, Dist.Sangli. ..Respondent.

Ms.Shubhangi Borade for Smt.Seema Sarnaik for petitioner.

Mr.A.H.Palekar for respondent No.1.

CORAM: A.M.KHANWILKAR,J
DATE : MARCH 28, 2006.

P.C. :

1. All these petitions can be disposed of by common order. The grievance in these petitions is about non-compliance of the direction given by this court by the respondents. This court has given following directions while allowing writ petition preferred by the respective petitioners in paragraph-6.

> "In these circumstances, the Industrial Court's order is set aside. However, in the passage of time, it would be difficult to reinstate the workman at this stage in view of the several Resolution passed by the State Government. However, the Resolution of State Government 1st December, 1995 states that all persons who are on the muster rolls on 31st May, 1993 would be absorbed as and when post available. In my view, the petition. However, it is made clear that although he would be considered to have been in service as on 31st May, 1993, he is not entitled to any monetary benefits. However, for the purposes of employment, the petitioner would be treated at the bottom of the Seniority list of 31st May, 1993."

3. Twofold grievance is made before this court. First is that no seniority list has been prepared so far and in any case name of the petitioners are not mentioned in the seniority list. The second grievance is that the petitioner has not been given employment inspite of the fact that there are sufficient number of vacant posts available. This grievances have been answered in the reply affidavit filed before this court.

4. In so far as the inclusion of the names of the petitioners in the seniority list, it is stated in the affidavit filed before this court by the respondent that their names appear at Sr.No.82, 74 and 173. However, argument of the petitioners is that the document which is referred to as seniority list by the respondent is not a seniority list as such. For this purpose, reliance is placed on the communication sent by the Collector, Sangli to Deputy Engineer, Miraj dated 5th December, 2005 which refers to this aspect and mentions that it is not a seniority list as such. Suffice it to observe that in the context of the directions given by this court as are reproduced earlier, all that the petitioners can agitate is that their names have not been entered at the appropriate position in the seniority list. It is not necessary in this contempt action to consider the argument whether the document relied upon as seniority list is a seniority list as such. The fact remains that the reply affidavit clearly records that the names of the respective petitioners have been forwarded to the appropriate authority to be included in the Seniority list. The document pressed into service on behalf of the respondent does indicate that seniority list has been prepared, in

which names of the respective petitioners are placed at Sr.No.82,74 and 173. The respondent shall make available copy of said list which according to them is the seniority list to the petitioner within two weeks from today. It will be open to the petitioners to challenge the placement of the petitioners in the said list, if the same is not acceptable to the petitioners. That aspect can be considered on its own merit in accordance with the law.

5. The second grievance is that inspite of vacant posts available petitioners are not being absorbed. There is no substance in this grievance. Reply affidavit as filed does indicate that names of the petitioners have been recommended for being absorbed in the post which may become available in future. But that may take some time. There is nothing on record to show that someone other than petitioners though not eligible or due for appointment have already been appointed against any of the vacant post overlooking the claim of the petitioners. That is not the grievance in the present petition. Understood thus, in view of the explanation offered by the respondent that the respondent will consider the case of the respective petitioners at appropriate time, no further action is

warranted. It is not possible to suggest that it is a case for wilful disobedience. Hence, petition disposed of on the above observation. Notices stand discharged.